

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, DECEMBER 3, 2003**

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of December 3, 2003, was called to order by Mayor Hitchcock at 7:04 p.m.

Present: Council Members – Beckman, Hansen, Howard, Land, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager Flynn, City Attorney Hays, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Bill Cummins, Bear Creek Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Mayor Hitchcock presented the Mayor's Community Service Awards to the following citizens:

- Annette Murdaca for her contributions toward the establishment of the Salvation Army Shelter and Lodi House; and
- Dennis Lewis for having developed and contributed 15 years to the Lodi Adopt-A-Child program.

D-2 Proclamations – None

D-3 (a) Mayor Hitchcock presented a Certificate of Appreciation from the American Cancer Society to Curt Juran, Assistant Street Superintendent, for the City's participation in the "Seeds of Hope" planting.

D-3 (b) Mayor Hitchcock presented a Certificate of Recognition to David Phillips, representing Michael-David Vineyards/Phillips Farm, for its many contributions to the City of Lodi and the community.

D-3 (c) Fire Chief Mike Pretz recognized members of the Lodi Fire Department who participated in the largest deployment of fire resources in California history. He reported that there are still 14 engine companies at the fire in southern California, which has been labeled the worst fires in California history. It has blackened over 750,000 acres, destroyed over 3,640 homes, 33 commercial properties, 1,141 other structures, and killed 22 people including one firefighter from Novato. Lodi Firefighters were part of two strike teams sent to San Bernardino County and operated at the "old fire." He read the following statement from the After Action Report: *"Upon arrival at the staging site, Lodi Firefighters were attached to the "Old Fire." The Lodi crews worked night operations saving several homes in the Devore area. Crews were later assigned to the Crestline/Lake Arrowhead area where they again battled flames and helped divert the fire around a hospital. Although several hundred homes were lost, several thousand were saved by their efforts."* Chief Pretz introduced and recognized the efforts of the following Lodi Firefighters.

- Division Chief Kevin Donnelly
- Captain Mike Tecklenburg
- Captain Sandy Wichman
- Engineer Mike Harden
- Engineer Aimee Dalrymple
- Firefighter Emilio Cahue
- Firefighter Mark Azevedo

Mayor Hitchcock then presented a Certificate of Recognition to Fire Chief Pretz.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Land, Beckman second, unanimously approved the following items hereinafter set forth:

- E-1 Claims were approved in the amount of \$2,042,640.86.
- E-2 The minutes of November 5, 2003 (Regular Meeting), November 25, 2003 (Shirtsleeve Session), and November 25, 2003 (Special Meeting) were approved as written.
- E-3 Adopted Resolution No. 2003-221 awarding the contract for Emerson Park Playground Improvements, 11 North Hutchins Street, to A.M. Stephens Construction, of Lodi, in the amount of \$145,746.40, and appropriated funds in accordance with staff's recommendation.
- E-4 Adopted Resolution No. 2003-222 accepting a portion of the improvements in Century Meadows One, Unit No. 2, Tract No. 2786, and adopted Resolution No. 2003-223 amending Section 2 of Traffic Resolution 97-148 approving the installation of a multi-way stop at Lexington Drive and Poppy Drive, yield signs on Springhaven Way at Poppy Drive, and yield signs on Wildwood Drive at Poppy Drive.
- E-5 Accepted the improvements under the "Fire Station #1 Staff Quarters Carpeting" contract.
- E-6 Adopted Resolution No. 2003-224 accepting the improvements under contract for Henning Substation Block Wall and Gate Project, directed the Electric Utility Director to file a Notice of Completion with the County Recorder's Office, and appropriated additional funds in the amount of \$6,400.
- E-7 Adopted Resolution No. 2003-225 authorizing destruction of certain records retained by the Lodi Police Department as listed below in excess of five years of age.
 - Background investigations and employment records of previous employees who have left employment with the City over five years ago. This does not include retirees.
 - Background investigations of previous applicants not hired, over five years old.
 - Crime reports, incident reports, and traffic reports over five years old, except for those with pending court action and all homicide investigations.
 - Investigations of Citizens Complaints over five years old.
- E-8 In regard to Century Meadows One Zone 2 being annexed to the Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, the following actions were taken:
 - Adopted Resolution No. 2003-226 of preliminary determination to annex territory to a maintenance assessment district, to form a zone, to levy an annual assessment for costs incurred, and preliminary approval of Engineer's Report for Century Meadows One Zone 2, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1;
 - Adopted Resolution No. 2003-227 of intention to annex territory to a maintenance assessment district, to form a zone, to levy and collect an annual assessment for maintenance and operation of improvements and for costs and expenses and setting time and place of public hearing for January 21, 2004, and setting forth mailed property owner ballot procedure and notice for Century Meadows One Zone 2, Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1;
 - Adopted Resolution No. 2003-228 authorizing the City Manager to execute a professional services agreement with Timothy J. Hachman, Attorney at Law, in the amount of \$7,000 for services required in support of the annexation; and

- Adopted Resolution No. 2003-229 authorizing the City Manager to execute a professional services agreement with Thompson-Hysell Engineers, a Division of the Keith Companies, Inc., in the amount of \$7,500 for services required in support of the annexation.
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F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Tim Vallem recalled that he had pointed out a violation of Lodi Municipal Code Section 12.06.110 to Council at its meeting on November 19 during the public hearing to consider the 2003-04 annual report and levy of assessment for Downtown Lodi Business Improvement Area No. 1. He stated that the City Attorney has not yet responded. He believed that if the Code was violated, then Council's action on November 19 would be invalid and the matter should be placed on a future agenda for Council to repeal its decision. Mr. Vallem reported that both the City Attorney and Deputy City Attorney stated in the past that the City has no jurisdiction over a non-profit corporation, yet when he raised the issue on November 19, the City Attorney commented that he would have to look into it. Mr. Vallem noted that he is still waiting for an answer. He read the following excerpt from Code Section 12.06.110: "*Annual budget process. Pursuant to the Act, it shall be necessary for the board to present, by September 1st, an annual budget for city council review and approval prior to the beginning of any billing period.*" He stated that the Downtown Lodi Business Improvement Area budget was submitted on October 15.

Mayor Hitchcock asked the City Clerk to arrange for a meeting between Mr. Vallem and City Attorney Hays.

G. PUBLIC HEARINGS

None.

H. COMMUNICATIONS

H-1 Claims filed against the City of Lodi – None

H-2 Reports: Boards/Commissions/Task Forces/Committees – None

H-3 The following postings/appointments were made:

- a) The City Council, on motion of Mayor Pro Tempore Howard, Beckman second, unanimously directed the City Clerk to post for the following vacancy:

Lodi Arts Commission

Elizabeth Giusto Term to expire July 1, 2005

H-4 Miscellaneous – None

I. REGULAR CALENDAR

I-1 "State Budget update"

City Manager Flynn reported that Governor Schwarzenegger reversed the ruling to backfill the Vehicle License Fee (VLF). The action was effective immediately. At a recent meeting with several mayors in California, the Governor stated that there would be backfill for the VLF; however, Mr. Flynn believed that it is contingent upon the \$15 billion bond initiative proposed for the March ballot. Mr. Flynn reported that the VLF represents 11% of Lodi's general fund revenue.

Debbie Olson, League of California Cities Regional Representative, reported that there are currently four bills that have been introduced to backfill the VLF with general fund money. Six of the seven Central Valley legislators are supporting a bill that backfills through the general fund. Ms. Olson stated that the Senate bill is not moving because the leadership in

the Senate believes that there needs to be an appropriation. Currently the appropriation would be coming from bonds and cuts to social services. The legislators in the Assembly believe that it is a promise that needs to be kept to cities and an obligation to fund cities. Ms. Olson requested that Council and citizens thank legislators for supporting local government and ask them to make a decision before they go on recess.

Council Member Hansen commented that it has been suggested to hold a special public meeting or discuss at a regular City Council meeting the topic of VLF, what services it funds, and what the backfill means. He noted that the League of California Cities has been working hard on putting a measure on the ballot that would protect local funding.

Mr. Flynn stated that at the December 17 Council meeting he would provide a report on the impacts to the City of the loss of the VLF and would ask for Council action at the first regularly scheduled meeting in January. In addition he would bring forward a resolution supporting the League's ballot initiative.

In answer to Council Member Land, Mr. Flynn reported that the City has only received \$300,000 in payments from the state for VLF, whereas it normally receives \$4 million. He anticipated that the City would lose \$2.6 million this year and annually thereafter.

MOTION/ VOTE:

There was no Council action necessary on this matter.

- I-2 "Discussion and action regarding the creation of a Greenbelt Task Force and appointment of its members"

Mayor Hitchcock reported that she distributed a "blue sheet" to Council listing her recommendations for appointment to the Mayor's Community Separator/Greenbelt Task Force (filed). She stated that the goal of the Task Force would be to create a greenbelt community separator to preserve open space and agricultural farmland between Lodi and Stockton. Its objective would be to explore and investigate a variety of models available as utilized in other cities to accomplish the separator and open space, and to make a recommendation to the City Council on what it thinks would work best among all these alternatives. Ms. Hitchcock noted that Stockton is currently pursuing its general plan update, which will set forth development for the next 50 years. Stockton's proposed general plan reaches east to Jack Tone Road, west to the Delta islands, south to Lathrop, and north to Armstrong Road. She believed that timing was critical and if something was not done now it would be a lost opportunity. She recalled that the 2x2x2 committee failed to accomplish anything and it became evident to her that elected policy holders would not be successful in attaining the goal of establishing a community separator/greenbelt. The proposed Task Force would be comprised of 15 members including one Planning Commissioner and one City Council Member. Ms. Hitchcock acknowledged that it was the end of her tenure as Mayor, and as she did not want to create a work plan for the next Mayor, she volunteered to serve on the Task Force. At the second meeting of the Task Force the members would select a chair and vice chair to run the meetings and set its calendar. It would meet monthly or twice monthly as determined by the Task Force. The Community Development Department, under the direction of Konradt Bartlam, would facilitate the process of presenting all the various options to assist the Task Force in meeting its goal. The term of the appointed Task Force members would end when a recommendation is made to the City Council and the Council deems that there is no further need for the Task Force.

Mayor Pro Tempore Howard voiced support for the overall goal to create the Task Force. She requested that Council consider creating the Task Force this evening and delay appointing its members until the next regularly scheduled meeting in December or the first meeting in January. She recalled that generally when a committee or task force is created,

time is allowed for the public to submit applications of interest. She noted that the Council will need to continue to address issues and take action on items even if it means that the Task Force has not yet completed its goals.

Mayor Hitchcock gave examples of past task forces and committees whose members were appointed directly by the Mayor.

Council Member Land stated that he fully supported the Greenbelt Task Force concept. He recalled that in 1999 the Lodi and Stockton City Council's discussed the establishment of a greenbelt and both were in agreement at the time; however, it faded away over time. He asked whether the Task Force would have a time frame for reporting back to Council.

Mayor Hitchcock acknowledged that expediency in the Task Force making a recommendation to Council was important, though she had not specified a deadline.

Council Member Land reported that at a recent Local Area Formation Commission meeting a presentation was given on Stockton's new water treatment plant, which is planned to be located on the northwest corner of Lower Sacramento and Eight Mile Roads. It is being developed to serve individuals north of Eight Mile Road and should be ready to move forward in approximately a year.

Mayor Hitchcock added that Stockton's new general plan calls for four power centers in the corners, which will be very growth inducing.

Council Member Land stated that two individuals phoned him and expressed an interest in serving on the Task Force. He concurred with Ms. Howard that the decision to appoint members be delayed until the next Council meeting to allow time for more public involvement in the process.

Council Member Hansen also spoke in favor of the Task Force concept. He suggested that a few more members be appointed such as property owners and farmers in the proposed greenbelt area, as well as representatives from the California Builders Association.

Council Member Beckman stated that private property and landowners' rights should be a paramount consideration for the Task Force. He recommended adding more members to the Task Force who own property in the proposed greenbelt area.

PUBLIC COMMENTS:

- Bruce Fry, President of the Lodi District Grape Growers Association, read the following statement on behalf of the Board of Directors:

The board of directors of the Lodi District Grape Growers Association took the position of opposing the establishment of a greenbelt zone unless such an effort could guarantee that: 1) farmers are fairly compensated for property acquired to create a greenbelt, 2) that a potential greenbelt be established by the acquisition of property from willing sellers, 3) that the cost of acquiring property to establish a potential greenbelt be borne by all who would benefit, i.e. all San Joaquin residents, and not unfairly impose upon farmers, new homeowners, or any other select group, and 4) that the establishment of a potential greenbelt be made in an equitable manner preserving the interest of other properties affected by the determination of a greenbelt property and requiring that the greenbelt properties are annexed into the city.

- Robert Raingruber commended the Mayor and Council for its support of the Greenbelt Task Force. He stated that he would like to see Lodi keep its cultural and agricultural standing. He asked whether the Williamson Act would still be of benefit toward this goal.

- Mike Higgins stated that he would like to be a member of the Greenbelt Task Force.
- Virginia Snyder voiced support for the Greenbelt Task Force. She recommended that Council vote to create the Task Force tonight, approve the Mayor's appointments, and that each Council Member appoint one more member to the Task Force at a later time.
- Bill Cummins stated that he had been a Lodi resident for 18 years and reported that he had developed a parcel in the proposed greenbelt area. He felt that a representative of the building trades industry should be on the Task Force. He had participated in many of the 2x2x2 meetings held in Stockton and Lodi and it seemed as though the main issue was money. Property owners want a fair amount of financial compensation, possibly in the form of a land trust. He suggested that the Task Force have a budget to work with, as well as some idea of how to fund whatever it proposes.
- Bert Castelanelli introduced himself as a local farmer and landowner in the proposed greenbelt area. He felt that all landowners in the area should be able to serve on the Task Force because their rights are being infringed upon. He reported that houses are being built on the property directly adjacent to where he is farming, which has created difficulties.
- Ricky Himm, Pastor of Christ Evangelical Church, stated that he owns property and would like to build a church in the proposed greenbelt area and asked what impact the Greenbelt Task Force would have on their plans.
- Dennis Bennett stated that he wanted to make sure that Lodi and Stockton do not grow together and that Lodi maintains its identity. He expressed concern about the establishment of the Task Force without proper legal advice. He pointed out that the proposed list of members does not include anyone from the development building industry or with expertise in entitlement issues. He cautioned the City against setting itself up for a lawsuit over private property rights. He estimated that hundreds of millions of dollars would be needed to buy the development rights. He believed that the only way to control the area today is through elected officials of Lodi and Stockton enforcing whatever general plan is created by the two cities.

In reply to Council Member Land, Mr. Bennett explained that buying development rights equates to future value, which he estimated at a minimum of \$80,000 an acre for the greenbelt area.

- Mr. Cummins reported that the Arch Diocese of San Joaquin County recently paid \$1.6 million for 20 acres in the greenbelt area.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2003-230 establishing a Mayor's Community Separator / Greenbelt Task Force and appointing the following 15 individuals, with the understanding that each Council Member will be allowed to make one additional appointment to the Task Force (for a total of 19 members) and that other interested parties will be asked to provide input and address their concerns to the Task Force.

Cliff Bradshaw
Ann Cerney
Christina Cross
Mark Chandler
Jasbir Gill

Katelin Grant
Pete Hetzner
Susan Hitchcock
Patrick Johnston
Robin Knowlton

Bob Lauchland
Robert Matthias
Pat Patrick
Dave Phillips
Randy Snider

J. ORDINANCES

- J-1 Ordinance No. 1737 entitled, "An Ordinance of the City Council of the City of Lodi Amending Title 5 – Permits and Regulations – Chapter 5.40, Adult-Oriented Businesses, Repealing and Reenacting Sections 5.40.300, 5.40.305, 5.40.400, and 5.40.405 of the Lodi Municipal Code Relating To Adult-Oriented Businesses" having been introduced at a regular meeting of the Lodi City Council held November 19, 2003, was brought up for passage on motion of Mayor Pro Tempore Howard, Land second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by the following vote:

Ayes: Council Members – Beckman, Hansen, Howard, Land, and Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

K. REORGANIZATION OF THE CITY COUNCIL

- K-1 "Reorganization of the Lodi City Council: election of Mayor and Mayor Pro Tempore"

City Manager Flynn commented on the following accomplishments that took place during Mayor Hitchcock's term:

- The new public safety building has been completed and will be dedicated on December 22;
- Work has been done toward developing the wastewater treatment plant program;
- There has been a more thorough review and understanding of the PCE/TCE litigation;
- Improvements were made to the Lodi Adopt-A-Child building;
- Salvation Army completed its fund drive;
- The downtown Farmers Market had its most successful year ever;
- Wineries and visitors to Lodi increased;
- New schools were built; and
- The Lowe's project has broken ground.

Mr. Flynn noted the following challenges:

- The budget;
- Unfunded capital projects;
- Greenbelt;
- Future of Hutchins Street Square with the impending resignation of Director Charlene Lange;
- Affordable housing; and
- Clean air.

Mr. Flynn then presented Mayor Hitchcock with a token of appreciation on behalf of the City.

Mayor Hitchcock thanked her Council colleagues, the citizens of Lodi, and dedicated City staff. She expressed gratitude to the City Clerk and her staff for their work on the E-agenda/packet and other assistance provided to her throughout the year. She thanked her husband and parents, noting that watching her parents have made her aware of challenges faced by seniors in the community. She stated that it had been her goal during her year as Mayor to build public trust by opening the process of government to all people, providing public access, and doing the public's business in public. Council has been consumed this past year with the ongoing PCE/TCE groundwater contamination litigation. After spending \$25 million with no clean up work done, she felt that the only winners have been the attorneys. In the next few months the Council will need to make difficult decisions relative to the litigation with the goal being to clean up the pollution and minimize the financial

impact to the citizenry. She expressed confidence that the newly formed Community Separator/Greenbelt Task Force will accomplish its goal. If the State does not backfill the rollback of the VLF car tax, the City will face a severe shortfall in which no program, department, or project will be saved from paring. She stated that if there are animosities, hurt feelings, or secret agendas they must all be discarded and the Council and staff must work together with the public, and in the public, to solve the monumental challenges that the City will face in the next two years. She pledged to Council Members and the next Mayor, her support and effort to ensure that Lodi remains a livable, lovable, community.

City Clerk Blackston, acting as Chair, opened and called for nominations for the election for the office of Mayor.

NOMINATION(S) FOR MAYOR:

① Council Member Land nominated Emily Howard to the office of Mayor.

② Council Member Hitchcock nominated Larry Hansen to the office of Mayor.

There being no further nominations for the office of Mayor, the nominations were closed.

VOTE:

① In regard to the nomination of Emily Howard for the office Mayor, the motion **failed** by the following vote:

Ayes: Council Members – Howard and Land

Noes: Council Members – Beckman, Hansen, and Hitchcock

Absent: Council Members – None

② In regard to the nomination of Larry Hansen to the office of Mayor, the motion carried by the following vote, thereby adopting Resolution No. 2003-231:

Ayes: Council Members – Beckman, Hansen, Hitchcock, and Land*

Noes: Council Members – Howard

Absent: Council Members – None

**NOTE: Council Member Land abstained from voting on this matter without stating a reason, and in accordance with Lodi Municipal Code Section 2.04.140, it was recorded as an affirmative vote.*

NOMINATION(S) FOR MAYOR PRO TEMPORE:

City Clerk Blackston turned over the meeting to newly elected Mayor Hansen, who then opened and called for nominations for the election for the office of Mayor Pro Tempore.

Mayor Hansen made a motion, Hitchcock second, to nominate John Beckman to the office of Mayor Pro Tempore.

Council Member Howard nominated Keith Land to the office of Mayor Pro Tempore. Council Member Land acknowledged that it was his turn to serve as Mayor Pro Tempore; however, in order to bring consensus to the Council, he declined the nomination. Mr. Land stated that he was confused and disappointed over the process that has occurred. Past and present Council Members, including Ms. Hitchcock, have supported the rotation of the position of Mayor. Ms. Howard was voted Mayor Pro Tempore last year and he believed she would have done an excellent job in the position of Mayor for the coming year.

There being no further nominations for the office of Mayor Pro Tempore, the nominations were closed.

VOTE:

In regard to the nomination of John Beckman to the office of Mayor Pro Tempore, the motion carried by the following vote, thereby adopting Resolution No. 2003-232:

Ayes: Council Members – Beckman, Hitchcock, Land, and Mayor Hansen

Noes: Council Members – Howard

Absent: Council Members – None

L. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Howard stated that she would have liked to have been Mayor and believed she was ready to serve in the position. She took time to reflect prior to the meeting tonight and asked herself a number of questions, one of which was 'whom does she serve,' for which she stated that there was only one answer. Ms. Howard proclaimed that she has been, and continues to be, grateful and honored for the opportunity to serve the community as a Council Member. She thanked her family and friends for being present and for their support.
- Mayor Hansen announced that he celebrated his 15th wedding anniversary with his wife Linda on December 2. He promised to give 110% as Mayor. He believed that the next year would be challenging and could be the most difficult year the City has faced in a decade or more. He emphasized how critical the League of California Cities ballot initiative will be in protecting local revenue and stated that he would focus on educating the community on this matter. Mr. Hansen reported that he serves on a task force for the Northern California Power Association, which is also working on an important issue related to a control area that would affect the ability to have control over electric rates. He hoped that the Council would focus more on similarities than differences and build a strong cohesiveness that will enable it to face the challenges ahead.
- Mayor Pro Tempore Beckman expressed appreciation for Council's confidence in him.

M. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager Flynn announced that a memorial service was held yesterday for Elizabeth Rosenquist who was a fine person and contributor to the community.

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 9:14 p.m. in memory of Viola Sunday, mother-in-law to Mayor Hansen, who passed away on July 2, 2000.

ATTEST:

Susan J. Blackston
City Clerk